

CENTER FOR DISABILITY ACCESS
Chris Carson, Esq., SBN 280048
Raymond Ballister Jr., Esq., SBN 111282
Phyl Grace, Esq., SBN 171771
Dennis Price, Esq., SBN 279082
Mail: PO Box 262490
San Diego, CA 92196-2490
Delivery: 9845 Erma Road, Suite 300
San Diego, CA 92131
(858) 375-7385; (888) 422-5191 fax
phylg@potterhandy.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Chris Langer,

Plaintiff,

v.

Payam Javaheri;
Pablo Garcia; and Does 1-10,
Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act**

Plaintiff Chris Langer complains of Payam Javaheri; Pablo Garcia; and Does 1-10 ("Defendants"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the State of California.

2. Defendant Payam Javaheri owned the real property located at or about

1 2115 S. Central Avenue, Los Angeles, California, in October 2018.

2 3. Defendant Payam Javaheri owns the real property located at or about
3 2115 S. Central Avenue, Los Angeles, California, currently.

4 4. Defendant Pablo Garcia owned Tony's Burger located at or about 2115
5 S. Central Avenue, Los Angeles, California, in October 2018.

6 5. Defendant Pablo Garcia owns Tony's Burger ("Restaurant") located at
7 or about 2115 S. Central Avenue, Los Angeles, California, currently.

8 6. Plaintiff does not know the true names of Defendants, their business
9 capacities, their ownership connection to the property and business, or their
10 relative responsibilities in causing the access violations herein complained of,
11 and alleges a joint venture and common enterprise by all such Defendants.
12 Plaintiff is informed and believes that each of the Defendants herein,
13 including Does 1 through 10, inclusive, is responsible in some capacity for the
14 events herein alleged, or is a necessary party for obtaining appropriate relief.
15 Plaintiff will seek leave to amend when the true names, capacities,
16 connections, and responsibilities of the Defendants and Does 1 through 10,
17 inclusive, are ascertained.

18
19 **JURISDICTION & VENUE:**

20 7. The Court has subject matter jurisdiction over the action pursuant to 28
21 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
22 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

23 8. Pursuant to supplemental jurisdiction, an attendant and related cause
24 of action, arising from the same nucleus of operative facts and arising out of
25 the same transactions, is also brought under California's Unruh Civil Rights
26 Act, which act expressly incorporates the Americans with Disabilities Act.

27 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
28 founded on the fact that the real property which is the subject of this action is

1 located in this district and that Plaintiff's cause of action arose in this district.

2
3 **FACTUAL ALLEGATIONS:**

4 10. Plaintiff went to the Restaurant in October 2018 with the intention to
5 avail himself of its goods and services, motivated in part to determine if the
6 defendants comply with the disability access laws.

7 11. The Restaurant is a facility open to the public, a place of public
8 accommodation, and a business establishment.

9 12. Parking spaces are one of the facilities, privileges, and advantages
10 offered by Defendants to patrons of the Restaurant.

11 13. Unfortunately, there were no accessible parking spaces marked and
12 reserved for persons with disabilities in the rear parking lot at the Restaurant
13 on the day of plaintiff's visit.

14 14. On information and belief, plaintiff alleges that there used to be an
15 accessible parking space in the rear parking lot, however. Unfortunately, the
16 defendants have allowed the parking space to fade or get paved over.

17 15. Currently, there is no compliant parking space marked and reserved for
18 persons with disabilities in the rear parking lot at the Restaurant.

19 16. Plaintiff personally encountered this barrier.

20 17. This inaccessible facility denied the plaintiff full and equal access and
21 caused him difficulty.

22 18. Paths of travel are another one of the facilities, privileges, and
23 advantages offered by Defendants to patrons of the Restaurant.

24 19. Meanwhile, and even though the plaintiff did not personally confront
25 the barriers, the threshold at the entrance of the Restaurant requires a person
26 to navigate a step that is about four inches in height. There is no ramp for
27 wheelchair users. There is a back door of the Restaurant but that door leads
28 one through the kitchen area. This is not an entrance for customers.

1 20. Entrance into the Restaurant is also one of the facilities, privileges, and
2 advantages offered by Defendants to patrons of the Restaurant.

3 21. Unfortunately, each of the double doorway clear passage widths is less
4 than 32 inches in width. In fact, each of the double doorways is 27 inches wide.
5 This is too narrow for wheelchair users.

6 22. Defendants have failed to maintain in operable working condition those
7 features of facilities and equipment that are required to be readily accessible to
8 and usable by persons with disabilities at the Subject Property.

9 23. The defendants have failed to maintain in working and useable
10 conditions those features required to provide ready access to persons with
11 disabilities.

12 24. The barriers identified above are easily removed without much
13 difficulty or expense. They are the types of barriers identified by the
14 Department of Justice as presumably readily achievable to remove and, in fact,
15 these barriers are readily achievable to remove. Moreover, there are numerous
16 alternative accommodations that could be made to provide a greater level of
17 access if complete removal were not achievable.

18 25. For example, there are numerous paint/stripe companies that will come
19 and stripe an accessible parking stall and access aisle and install proper signage
20 on rapid notice, with very modest expense, sometimes as low as \$300 in full
21 compliance with federal and state access standards.

22 26. Plaintiff will return to the Restaurant to avail himself of its goods or
23 services and to determine compliance with the disability access laws. He is
24 currently deterred from doing so because of his knowledge of the existing
25 barriers. If the barriers are not removed, the plaintiff will face unlawful and
26 discriminatory barriers again.

27 27. Given the obvious and blatant nature of the barriers and violations
28 alleged herein, the plaintiff alleges, on information and belief, that there are

1 other violations and barriers on the site that relate to his disability. Plaintiff will
 2 amend the complaint, to provide proper notice regarding the scope of this
 3 lawsuit, once he conducts a site inspection. However, please be on notice that
 4 the plaintiff seeks to have all barriers related to his disability remedied. See
 5 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff
 6 encounters one barrier at a site, he can sue to have all barriers that relate to his
 7 disability removed regardless of whether he personally encountered them).

8
 9 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 10 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
 11 Defendants.) (42 U.S.C. section 12101, et seq.)

12 28. Plaintiff re-pleads and incorporates by reference, as if fully set forth
 13 again herein, the allegations contained in all prior paragraphs of this
 14 complaint.

15 29. Under the ADA, it is an act of discrimination to fail to ensure that the
 16 privileges, advantages, accommodations, facilities, goods and services of any
 17 place of public accommodation is offered on a full and equal basis by anyone
 18 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.
 19 § 12182(a). Discrimination is defined, inter alia, as follows:

- 20 a. A failure to make reasonable modifications in policies, practices,
 21 or procedures, when such modifications are necessary to afford
 22 goods, services, facilities, privileges, advantages, or
 23 accommodations to individuals with disabilities, unless the
 24 accommodation would work a fundamental alteration of those
 25 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 26 b. A failure to remove architectural barriers where such removal is
 27 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
 28 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,

1 Appendix "D."

2 c. A failure to make alterations in such a manner that, to the
3 maximum extent feasible, the altered portions of the facility are
4 readily accessible to and usable by individuals with disabilities,
5 including individuals who use wheelchairs or to ensure that, to the
6 maximum extent feasible, the path of travel to the altered area and
7 the bathrooms, telephones, and drinking fountains serving the
8 altered area, are readily accessible to and usable by individuals
9 with disabilities. 42 U.S.C. § 12183(a)(2).

10 30. Any business that provides parking spaces must provide accessible
11 parking spaces. 2010 Standards § 208. Under the 2010 Standards, one in
12 every six accessible parking spaces must be van accessible. 2010 Standards §
13 208.2.4.

14 31. Here, the failure to provide an accessible parking space is a violation of
15 the ADA.

16 32. There must be an accessible path of travel that connects all buildings,
17 elements and spaces on the same site. To be considered an accessible route,
18 there cannot be a stair or step. Any such change in level measuring greater than
19 ½ inch must have a ramp or lift. *Id.* 2010 Standards § 303.4.

20 33. Here, the unramped step to the front entrance of the Restaurant is a
21 violation of the ADA.

22 34. Doorways must have a minimum clear opening of 32 inches with the
23 door open 90 degrees, measured between the face of the door and the opposite
24 stop. 2010 Standards § 404.2.3.

25 35. Here, the failure to provide a 32-inch wide doorway opening is a
26 violation of the ADA.

27 36. The Safe Harbor provisions of the 2010 Standards are not applicable
28 here because the conditions challenged in this lawsuit do not comply with the

1 1991 Standards.

2 37. A public accommodation must maintain in operable working condition
3 those features of its facilities and equipment that are required to be readily
4 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

5 38. Here, the failure to ensure that the accessible facilities were available
6 and ready to be used by the plaintiff is a violation of the law.

7
8 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
9 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
10 Code § 51-53.)

11 39. Plaintiff repleads and incorporates by reference, as if fully set forth
12 again herein, the allegations contained in all prior paragraphs of this
13 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,
14 that persons with disabilities are entitled to full and equal accommodations,
15 advantages, facilities, privileges, or services in all business establishment of
16 every kind whatsoever within the jurisdiction of the State of California. Cal.
17 Civ. Code § 51(b).

18 40. The Unruh Act provides that a violation of the ADA is a violation of the
19 Unruh Act. Cal. Civ. Code, § 51(f).

20 41. Defendants’ acts and omissions, as herein alleged, have violated the
21 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s
22 rights to full and equal use of the accommodations, advantages, facilities,
23 privileges, or services offered.

24 42. Because the violation of the Unruh Civil Rights Act resulted in difficulty,
25 discomfort or embarrassment for the plaintiff, the defendants are also each
26 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-
27 (c).)

1 **PRAYER:**

2 Wherefore, Plaintiff prays that this Court award damages and provide
3 relief as follows:

4 1. For injunctive relief, compelling Defendants to comply with the
5 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
6 plaintiff is not invoking section 55 of the California Civil Code and is not
7 seeking injunctive relief under the Disabled Persons Act at all.

8 2. Damages under the Unruh Civil Rights Act, which provides for actual
9 damages and a statutory minimum of \$4,000.

10 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
11 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

12
13 Dated: January 9, 2019

CENTER FOR DISABILITY ACCESS

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16 By: 

17 _____
18 Chris Carson, Esq.
19 Attorney for plaintiff
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